

10/586019
JAP20 Rec'd PCT/PTO 14 JUL 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Hans Werner Schoelling
Int'l Appln No : PPC/EP2003/010721 Art Unit:
Filed : September 26, 2003 Examiner:
For : TAMPON FOR FEMININE HYGIENE AND PROCESS AND APPARATUS FOR.

Commissioner for Patents
Arlington, VA 22202

The undersigned is the attorney of record in the present application and is employed by Johnson & Johnson, the parent company of the assignee of this application.

The undersigned has a prosecution docket of approximately 90 pending U.S. patent applications and a proportionately large foreign prosecution docket. The vast majority of this docket is based on US-originating applications. Generally, non-US-originating patent applications are filed in the US within the Paris Convention year, although a few are filed in the US based upon a US Designation in a PCT application. Thus, US national entry of PCT applications is unusual for cases in my docket.

In addition, the undersigned is involved in two litigation actions, due diligence and negotiation activities in several matters relating to the acquisition and/or divestiture of intellectual property rights, and in day-to-day client counseling activities. This level of activity has been at least constant, if not increasing, over the past couple of years.

The subject PCT application was filed in the European Patent Office on September 26, 2003, with a priority date of September 26, 2002. The 30 month period for US national entry expired on March 26, 2005. The subject matter of this PCT application relates to commercially valuable technology, and my client and I intended that this case would be pursued at least in Europe and in the US.

The Johnson & Johnson Patent Department docketing and document handling systems have been transitioning from paper-based to electronic systems since November 2004. Instead of forwarding file folders with attached Office Actions, the Johnson & Johnson Patent Department notifies attorneys of incoming Office Actions via email, and the actual documents are uploaded into an electronic database. In order to view the document, the attorney must access the electronic database to view and/or print out the document. Neither the paper file nor the paper documents are ordinarily delivered to the attorney. The undersigned regularly receives between thirty and 100 emails per day. There is no automatic notification to the attorney of pending final docket dates.

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In June 2006, a review of my client's patent estate relating to some tampon manufacturing technology revealed that the subject application was never filed in the US through oversight.

Respectfully submitted,

/Joel A. Rothfus/
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Reg. No. 33,277
Attorney for Applicant

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(732) 524-2722
July 14, 2006

Please type a plus sign (+) inside this box

PTO/SB/01 (10-00)

Approved for use through 10/31/2002. OMB 0651-0032

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**DECLARATION
AND
POWER OF ATTORNEY
FOR UTILITY OR DESIGN
PATENT APPLICATION
(37 CFR 1.63)**

Declaration Submitted with Declaration Submitted after
Initial Filing OR Initial Filing (Surcharge
(37 CFR 1.16(e)) required)

Attorney Docket Number	J&J-5008
First Named Inventor	H. W. SCHOELLING
COMPLETE IF KNOWN	
Application Number	
Filing Date	
Group Art Unit	
Examiner Name	

As a below named inventor, I hereby declare that:

My residence, mailing address, and citizenship are as stated below next to my name.
I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

TAMPON FOR FEMININE HYGIENE AND PROCESS AND APPARATUS FOR MANUFACTURING THE SAME
(*Title of the Invention*)

the specification of which

is attached hereto

OR

was filed on (MM/DD/YYYY) **26 SEP 2003** as United States Application Number or PCT International Application Number
PCT/EP2003/010721 and was amended on (MM/DD/YYYY)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Not Claimed	Certified Copy Attached? YES NO
102 44 874.4	DE	09/26/2002	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>

DECLARATION - Utility or Design Patent Application

I hereby claim the benefit under 35 U.S.C. 119(e) of any United States provisional application(s) listed below.

Application Number(s)	Filing Date (MM/DD/YYYY)	□ Additional provisional application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Application Serial No.	Filing Date	Status
		Patented Patented Patented

I hereby appoint:

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AND

Practitioner(s) named below:
Name Registration Number

as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith.

Address all telephone calls to JOEL A. ROTHFUS at telephone number (732) 524-2722.

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<input type="checkbox"/> Correspondence address below		
Name: <u> </u>		
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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

NAME OF SOLE OR FIRST INVENTOR:		<input type="checkbox"/> A petition has been filed for this unsigned inventor		
Given Name (first and middle [if any]) HANS-WERNER		Family Name or Surname SCHOELLING		
Inventor's Signature		Date		
Residence: City ENNEPETAL	State	Country GERMANY	Citizenship DE	
Mailing Address DOHLENWEG 11				
City ENNEPETAL	State	ZIP 58256	Country DE	
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.				
NAME OF SECOND INVENTOR:		<input type="checkbox"/> A petition has been filed for this unsigned inventor		
Given Name (first and middle [if any])		Family Name or Surname		
Inventor's Signature		Date		
Residence: City	State	Country	Citizenship	
Mailing Address				
City	State	ZIP	Country	
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.				
NAME OF THIRD INVENTOR:		<input type="checkbox"/> A petition has been filed for this unsigned inventor		
Given Name (first and middle [if any])		Family Name or Surname		
Inventor's Signature		Date		
Residence: City	State	Country	Citizenship	
Mailing Address				
City	State	ZIP	Country	

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.